IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 5820 OF 2007

Pradip Jagannath Khabale & ors.... Petitioner

versus

Shankar Nivrutti Jadhav & ors..... Respondent.

Shri Amit Sale for the petitioner
Shri Ajit Kensale for respondent no.1.

CORAM; A.P. DESHPANDE, J.
DATED; 08TH OCTOBER, 2007

P.C.;

1. The present petitioner is original defendant no.1 who claims to have purchased an undivided share. The case of the petitioner is that he has purchased 1/4th share in the suit property from the other defendants. The Plaintiff's case is that he is a co-parcener of the joint family property and that there has been never any partition effected of the joint family property, and hence the other co-owners could not have sold any portion of the land. The plaintiff in the said suit filed an application for temporary injunction. The trial court granted temporary injunction as prayed by the plaintiff and a Misc. Civil Appeal filed by the present petitioner before the District Court has been dismissed. Temporary

injunction is operating in favour of the plaintiff since more than last two years. Both the courts below have primafacie concurrently found that there has been no partition of the joint family property and the defendant no.1/petiitoner being a third party, has been restrained by granting of temporary injunction from interfering with the petitioner’s possession of the suit property.

2. Perused the impugned order. The same does not call for any interference more so in exercise of writ jurisdiction. In my view a direction to the trial court to expeditiously decide the suit would be in furtherence of cause of justice. Hence though the writ petition is summarily dismissed, I direct the trial court to decide the suit as expeditiously as possible uninfluenced by the observations made in the impugned order.

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